

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO
et al.,

(Jointly Administered)

Debtors.¹

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PUERTO RICO PUBLIC FINANCE
CORPORATION,

PROMESA
Title VI

Applicant.

Case No. 22-cv-1517 (LTS)

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ORDER REGARDING PROCEDURES FOR TITLE VI
APPROVAL HEARING FOR THE PUERTO RICO PUBLIC FINANCE
CORPORATION AND DECEMBER 14-15, 2022 OMNIBUS HEARING

The Court will conduct an omnibus hearing on certain motions in the above-captioned cases and related adversary proceedings (the “Omnibus Hearing”) beginning at **9:30**

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

a.m. (Atlantic Standard Time) on December 14, 2022. Immediately upon the conclusion of the Omnibus Hearing, the Court will receive evidence and hear argument in connection with the request of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) for approval of the *Application of the Puerto Rico Public Finance Corporation, by and Through the Financial Oversight and Management Board for Puerto Rico, as Administrative Supervisor, for Approval of Qualifying Modification for PFC Pursuant to Section 601(m)(1)(D) of the Puerto Rico Oversight, Management, and Economic Stability Act* (Docket Entry No. 1 in Case No. 22-cv-1517) (the “Qualifying Modification Hearing” and, together with the Omnibus Hearing, the “Hearings”). The Hearings will be conducted on **December 14, 2022, from 9:30 a.m. to 12:50 p.m. (Atlantic Standard Time)**, resume from **2:10 p.m. to 5:00 p.m. (Atlantic Standard Time)**, and continue, if necessary, on **December 15, 2022, beginning at 9:30 a.m. (Atlantic Standard Time)**. The Court will conduct the Hearings in Courtroom 3 of the United States District Court for the District of Puerto Rico, 150 Carlos Chardón Street, Federal Building, San Juan, Puerto Rico 00918-1767 (the “San Juan Courtroom”). The Hearings shall be governed by the following procedures.

Registration for In-Person Attendance; CourtSolutions Participation, and Listen-In Facilities for Attorneys, Members of the Public and Press

1. **In-Person Participation.** Judge Swain will be present in the San Juan Courtroom. **All attorneys who are scheduled to participate in a matter scheduled to be heard at the Hearing are expected to appear in person (either in the San Juan Courtroom or the New York Courtroom).** Counsel who are not scheduled to present argument or examine witnesses have the following options to access the Hearings: (i) observe in person in the San Juan Courtroom; (ii) observe a video feed of the Hearings in person in Courtroom 17C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan

Courthouse, 500 Pearl Street, New York, New York 10007 (the “New York Courtroom”); or

(iii) register for a speaking line and/or listen-only CourtSolutions access line. Persons present in the well of either courtroom will be required to wear KN-95 or KF-94 masks except when speaking. Observers in the San Juan Courtroom are required to wear masks and observers in the New York Courtroom are encouraged to wear masks. **Counsel who have entered their appearance in the Title III proceedings or the Title VI proceeding and intend to participate in or observe the Hearings in person (in the San Juan Courtroom or the New York Courtroom) or through the CourtSolutions platform must file an informative motion**, as set forth in paragraph 6 below. Informative motions are due **no later than December 7, 2022, at 12:00 p.m. (Atlantic Standard Time)**.

2. **CourtSolutions Registration.** Counsel who have entered an appearance in the Title III proceedings or the Title VI proceeding have the option to register for a live participation line or listen-only line. Such counsel must register individually with CourtSolutions at www.court-solutions.com no later than **December 7, 2022, at 12:00 p.m. (Atlantic Standard Time)** and pay the fee established by CourtSolutions.²

3. **Listen-Only Public Access to the Hearings.** Members of the public, press, and attorneys may **listen to but not participate in** the Hearings by dialing (888) 363-4749, and, when prompted, entering the access code (7214978) and security code (7533) for listen-only access. This telephonic access line for the press and the general public will be in listen-only mode at all times. Recording and retransmission of the proceedings by any means are prohibited.

² Counsel who intend to participate by CourtSolutions are advised that filing an informative motion in accordance with paragraph 6, does not relieve the attorney of the obligation to separately register on www.court-solutions.com.

4. **Live Video Feed of the Hearings.** Members of the public and press who wish to **view but not participate in** the Hearings through a live video feed may do so by appearing in person at the United States District Court for the District of Puerto Rico, 150 Carlos Chardón Street, Federal Building, San Juan, Puerto Rico 00918-1767 (the “San Juan Courthouse”) or the United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York 10007 (the “New York Courthouse”).

5. **Press Room.** A live video feed of the proceedings will be available for viewing in the press rooms in the San Juan Courthouse. Members of the press should contact presscredentials@prd.uscourts.gov (San Juan) regarding viewing facilities and space availability. Members of the press are also able to view the proceedings in the New York Courtroom or dial into the listen-only line.

Party Informative Motion and Exhibit List Procedures

6. Counsel for any party-in-interest (each, a “Party”) and any individual Party not represented by counsel that wishes to participate in the Hearings must file an informative motion by **December 7, 2022, at 5:00 p.m. (Atlantic Standard Time)**. The informative motion shall contain a completed Exhibit A, Exhibit B, and Exhibit C. Counsel who have not filed exhibits and/or do not intend to examine a witness may write “N/A” on the Exhibit B and Exhibit C cover sheets.

a. **Party Appearance Sheet.** Counsel for any Party that has (a) timely filed an objection to or statement in support of the *Application of the Puerto Rico Public Finance Corporation, by and Through the Financial Oversight and Management Board for Puerto Rico, as Administrative Supervisor, for Approval of Qualifying Modification for PFC Pursuant to*

Section 601(M)(1)(D) of the Puerto Rico Oversight, Management, and Economic Stability Act

(Docket Entry No. 1 in Case No. 22-cv-1517), or (b) a motion or response in connection with a matter noticed for the omnibus hearing (each, a “Party”) and wishes to participate at the Hearings must register an appearance by completing the Party Appearance Sheet. Counsel must identify: (a) the Party for which they intend to appear; (b) whether they intend to appear for the Qualified Modification Hearing, the Omnibus Hearing, or both; and (c) the name(s), email address(es), and method of appearance for those attorney(s) who wish to participate in or observe the Hearings.

b. Witness Cover Sheet. If the Party wishes to cross-examine any declarant, the Party shall complete the Witness Cover Sheet indicating: (a) the witness(es) to be examined; (b) the factual issue(s) to which the proposed cross-examination or testimony relates; (c) the subject matter of the testimony and its relevance to the factual issue(s); and (d) the time requested for such examination or testimony.

c. Parties not represented by counsel. Any individual Party who wishes to participate in the Hearings must file a Pretrial Informative Motion with the Party Appearance Sheet, Witness Cover Sheet, and Exhibit Cover Sheet as set forth in paragraph 6.

d. Exhibit List Procedures and Exhibit Cover Sheet. Exhibit lists are due by **December 7, 2022, at 12:00 p.m. (Atlantic Standard Time)**. Each Party must follow the below instructions for filing the Exhibit List.

- i. Each Party is directed to file an Exhibit List using the CM/ECF event “Motion Submitting.”
- ii. Each Party must upload each exhibit as a separate attachment to the Exhibit List. Hyperlinks may not be used in lieu of uploading an exhibit.

- iii. The Exhibit List is intended to be a single filing (with multiple exhibits). If your Exhibit List and attachments exceed the upload capacity of CM/ECF,³ you may divide your submission into multiple filings.
- A. **Large Exhibits.** If a single exhibit is too large to file, Parties shall divide the exhibit into separate attachments. In this scenario, the Party assigns each part of the exhibit **the same exhibit letter or number**, and types in the text field “Part 1 of [Total Number].” Parties **must** select the same exhibit letter or number to indicate to the Court that an uploaded exhibit is continued in the next attachment. For example, if “Party ABC” needs to divide Exhibit C into 3 attachments due to its size, “Party ABC” will upload and designate the exhibit as follows: Exhibit C: “Part 1 of 3,” the next attachment as Exhibit C “Part 2 of 3,” and the final attachment as Exhibit C “Part 3 of 3.” The next attachment will then proceed to Exhibit D.
- B. **Multiple Filings.** If a group of exhibits reaches the 20MB capacity for a single CM/ECF filing, parties must continue to file their exhibits by starting a new filing. Parties will again select the “Motion Submitting” CM/ECF Activity when filing the next set of exhibits. The main document for a continued filing should be titled “Continued Exhibits of [Party Name]” and may include a list of the exhibits attached to that single filing.
- iv. **Requests to Seal Certain Exhibits.** A Party who has included an exhibit on their Exhibit List that is subject to a sealing application **must file a placeholder for the exhibit, clearly marked as such.** The placeholder document can simply state “Exhibit Name, Exhibit Brief Description, Party [Name] will file a Motion to Seal regarding Exhibit [Letter].” The Party must still select the exhibit letter corresponding to the exhibit and type in the text field “SEALED Exhibit [Letter].”
- A. When a Party files a motion to seal, the Party must select the CM/ECF designation “MOTION TO SEAL” or “URGENT MOTION TO SEAL.” This is the only CM/ECF Designation that allows the Clerk’s Office to unseal the document at a later date. Failure to select the appropriate designation will result in a deficient filing notification and/or termination of the motion.

³ The maximum capacity of the U.S. Bankruptcy Court for the District of Puerto Rico CM/ECF System is 20 MB for a single filing.

The Exhibit Cover Sheet, Exhibit C to the Pretrial Informative Motion, must include all docket entry numbers for each exhibit that was previously filed in connection with the Exhibit List. Thus, a Party is only able to complete the Exhibit Cover Sheet **after** the Party has filed their Exhibit List.

7. **Witness Testimony.** The court expects that all witnesses be available for in person cross-examination at the San Juan Courthouse during the Qualifying Modification Hearing. Rule 43(a) of the Federal Rules of Civil Procedure, made applicable by Rule 9017 of the Federal Rules of Bankruptcy Procedure, provides that for “good cause in compelling circumstances” a witness may be permitted to testify by contemporaneous transmission from a location other than the courtroom. Any motions to allow a witness to provide remote testimony shall be due no later than **December 8, 2022**.

a. The original proponent of a witness will be responsible for (a) arranging in-person participation at the Qualifying Modification Hearing, (b) providing a certified interpreter if the witness requires translation services,⁴ and (c) confirming witness attendance by emailing SwainDPRCorresp@nysd.uscourts.gov by **3:00 p.m. (Atlantic Standard Time)** the day before the witness is scheduled to testify with the following information: the (1) name of the witness, and (2) the name of the interpreter, if any.

b. The Party intending to examine a witness must have identified the witness on the Party’s witness list, due **December 7, 2022**, and included the declarant’s name on the Witness Cover Sheet attached to the Party’s Pretrial Informative Motion. Direct testimony will

⁴ Information regarding interpreter services can be found on the website for the United States District Court for the District of Puerto Rico <https://www.prd.uscourts.gov/interpreter-services>.

be by declaration previously provided pursuant to the procedures prescribed for that purpose, and cross-examination and redirect examination, if any, shall be as set forth herein.

c. The Court will review all declarations that have been submitted in support of or opposition to the Qualifying Modification in advance of the Qualifying Modification Hearing. The deadline for all Parties to file witness declarations to be used at the Qualifying Modification Hearing is **December 4, 2022**. All such declarations are deemed submitted as direct testimony.

d. Parties must meet and confer in advance of the Qualifying Modification Hearing to use their best efforts to agree on the admissibility of the proposed exhibits into evidence. By no later than **December 8, 2022, at 2:00 p.m. (Atlantic Standard Time)**, the Parties shall, through the Oversight Board's counsel, provide to **each** of the courthouses⁵: (a) a list of exhibits whose admissibility into evidence for purposes of the Qualifying Modification Hearing is agreed; (b) a list of exhibits whose admissibility into evidence is not agreed; and (c) hard copies of all witness direct testimony declarations.

Notice of Omnibus Hearing Agenda and Order of Appearances for Oral Argument and Witness Examination in connection with the Qualifying Modification Hearing

8. In anticipation of the Hearings, the Debtors shall file an agenda outlining the matters to be addressed and the projected timetable for the Hearings by **December 12, 2022**, in accordance with the Sixteenth Amended Case Management Procedures and *Order Granting Motion for Entry of an Order Approving Procedures and Establishing Schedule for Approval of*

⁵ The binders shall be addressed to the following locations: (i) United States District Court for the District of Puerto Rico, 150 Carlos Chardón Street, Federal Building, San Juan, Puerto Rico 00918-1767, and (ii) the United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York 10007.

Qualifying Modification for the Puerto Rico Public Finance Corporation. (See Docket Entry No. 20190-1 § III.M; see also Docket Entry No. 10 in Case No. 22-cv-1517.) Debtors' counsel shall file a revised agenda on **December 13, 2022**, if circumstances have changed or if requested to do so by the Court. Debtors' counsel shall email a proposed agenda, including preliminary time allocations, to the Court by **December 10, 2022, at 12:00 p.m. (Atlantic Standard Time)**. The Parties intending to present argument and examine witnesses in connection with the Qualifying Modification Hearing shall meet and confer and jointly propose time allocations for argument in connection with the Qualifying Modification Hearing.

a. Omnibus Hearing Agenda. The agenda shall include: (a) the names of the individuals who intend to appear and speak on behalf of each relevant Party in connection with each motion or report; (b) the order in which the parties to the relevant motion shall present argument; and (c) time allocations for each Party.

b. Status Reports. The Oversight Board and AAFAF shall file written status reports by **5:00 p.m. (Atlantic Standard Time) on December 13, 2022**. The Oversight Board's report shall address: (a) the general status and activities of the Oversight Board, including measures taken in response to the COVID-19 pandemic; (b) the general status of relations among the Oversight Board and the Commonwealth and federal governments; (c) the general status of the ADR and ACR processes, including the anticipated number of matters to be directed into the ADR process and anticipated timetable for initiation of ADR procedures with respect to such matters; and (d) the anticipated timing and volume of objections to claims. AAFAF shall provide a general status report on its status and activities, including an overview of the Commonwealth's ongoing response to the COVID-19 pandemic. At the Omni Hearing, the

Court will ask counsel to the Oversight Board and AAFAF to respond to questions and comments, if any, related to their respective status reports.

c. Qualifying Modification Hearing Agenda. The Agenda shall include the order of appearances for oral argument and witness examination including: (a) the Parties (including any persons appearing pro se) who intend to appear and present opening and closing statements; (b) time allocations for each speaker providing an opening and closing statement; (c) the names and anticipated order of the witnesses that will be cross-examined; (d) the names and anticipated order of the Parties who will cross-examine the witnesses; and (e) the name of any Party who anticipates conducting redirect examination of a witness. The Court will allocate up to two hours for the Qualifying Modification Hearing. Parties are not required to exhaust the entire forty-five minutes allotted.

9. **Courtroom Procedures.** All persons appearing in person or by telephonic means are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of this prohibition may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. All individuals at the San Juan Courtroom and the New York Courtroom must comply with the relevant COVID-19 protocols (including any applicable masking and social distancing requirements), available at <https://www.prd.uscourts.gov/covid-19-pandemic-orders-and-important-information> (San Juan Courtroom) and <https://www.nysd.uscourts.gov/covid-19-coronavirus> (New York Courtroom), respectively, and the directions of the Court.

SO ORDERED.

Dated: November 23, 2022

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge